

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MATTHEW VADO,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.

18 Civ. 9310 (PAE)

14 Cr. 666-1 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

Pro se petitioner Matthew Vado is currently serving a term of 360 months' imprisonment after pleading guilty to charges of production, receipt, and possession of child pornography. *See* 14 Cr. 666, Dkt. 66 (judgment). On October 10, 2018, Vado filed a petition for relief pursuant to 28 U.S.C. § 2255, principally arguing that his representation by the Federal Defenders of New York was ineffective. 18 Civ. 9310, Dkt. 1. On November 22, 2019, the Court issued a decision denying Vado's petition as "meritless," certifying that any appeal from the order would not be taken in good faith, and declining to issue a certificate of appealability. *Id.*, Dkt. 9 (the "§ 2255 Decision") at 9 (citing *Coppedge v. United States*, 369 U.S. 438, 445 (1962)).

On April 14, 2020, the Court, having received notice from Vado that he had not received a copy of the Court's decision resolving his § 2255 petition, issued an order confirming that Vado's petition had been denied, and mailed copies of both the April 14 order and the § 2255 Decision to Vado. *Id.*, Dkt. 11. On May 7, 2020, the Court received a letter from Vado, requesting that the Court vacate and reissue the § 2255 Decision to allow Vado to file a timely notice of appeal, and attaching an affidavit attesting that Vado first received a copy of the § 2255

Decision on April 23, 2020. *Id.*, Dkt. 12. The record does not reflect that the § 2255 Decision was mailed to Vado prior to April 14, 2020.

Although Vado's petition for relief pursuant to § 2255 remains meritless, the record does not allow the Court to conclude that Vado had an opportunity to file a timely notice of appeal. Accordingly, the Court withdraws its § 2255 Decision. The Court hereby reissues the § 2255 Decision, which the Court incorporates by reference here.

The Court again declines to issue a certificate of appealability and certifies that any appeal from this order—or from the § 2255 Decision—would not be taken in good faith; therefore, *in forma pauperis* status is denied for the purpose of an appeal. *Coppedge*, 369 U.S. at 445.

The Clerk of Court is respectfully directed to terminate the motions pending at docket 88 in 14 Cr. 666-1 and docket 12 in 18 Civ. 9310. The Clerk of Court is further respectfully directed to mail this order, along with § 2255 Decision incorporated by reference in this order, 18 Civ. 9310, Dkt. 9, to Vado at the address on file.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: May 11, 2020
New York, New York